



CONSUMER ATTORNEYS OF CALIFORNIA

Seeking Justice for All

Helping child sexual abuse victims achieve justice

SB 1053
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BILL SUMMARY

SB 1053 will codify and clarify current law that governs when a victim of childhood sexual abuse may file a claim against a public entity and seek justice through the civil courts. SB 1053 clarifies that CCP Section 340.1, which applies to actions for recovery of damages suffered as the result of childhood sexual abuse, is the sole statute governing such claims, as the Legislature intended.



BACKGROUND

In 2002, the Legislature enacted CCP Section 340.1 to provide that an action for recovery of damages suffered as a result of childhood sexual abuse may be commenced on or after the plaintiff's 26th birthday against someone other than the direct perpetrator, if that person or entity knew, had reason to know, or was otherwise on notice of any unlawful sexual conduct by an employee, volunteer, representative, or agent, and failed to take reasonable steps, and implement reasonable safeguards, to avoid future acts of unlawful sexual conduct. The Government Tort Claims Act generally governs damage claims brought against public entities and requires that a claim relating to a cause of action for death or for injury to a person be presented in writing not later than six months after the cause.

Recognizing the unique nature of childhood sexual abuse cases, CCP Section 340.1 created a specific statute governing the time to commence an action for childhood sexual abuse. The Legislature expressly intended to exempt childhood sexual abuse claims arising out of molestation after Jan. 1, 2009 from the strict claims process for claims against public entities, which requires written notice within six months. This intent was codified in 2008 through SB 640 (Simitian), which specifically exempted claims made against a local public entity for the recovery of damages from the six month process. The Legislative Counsel confirmed in 2016 that "it is our opinion that a school district may not adopt a claim presentation procedure with respect to claims for damages suffered as a result of childhood sexual abuse."

PROBLEM

Some school districts are challenging the current law, despite the fact there is clear statutory language and intent as well as compelling rationale for it. When a parent or guardian discovers sexual abuse of a minor, there often is a period of shock and pain, with efforts focused on criminal prosecution and counseling. A shorter filing deadline

would not accommodate the emotional and psychological trauma caused by childhood sexual abuse. It is unreasonable to expect a child to inform an adult of abuse, and the child's injuries are not immediately visible. Victims of child sexual abuse may not recognize or report the abuse for years.

SOLUTION

SB 1053 codifies and clarifies existing law that protects victims of childhood sexual abuse. Child sexual abuse is a hidden but significant problem in every community in America, including California. Experts estimate that one in four girls and one in six boys will be sexually abused before their 18th birthday. Less than one in ten will tell. SB 1053 clarifies that victims who couldn't speak up sooner will do so later. It will make it harder for predators and their employers to hide evidence, conceal crimes, intimidate victims, and threaten witnesses.

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SUPPORT

California Nurses Association; California Protective Parents Assn.; Children's Advocacy Institute; John Burton Advocates for Youth; National Center for Youth Law; Peace Officers Research Association of California; S.E.S.A.M.E.; Survivors Network of Those Abused by Priests; California Catholic Conference; California Coalition Against Sexual Assault; California State PTA; Courage Campaign.

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